

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL ACTION NO. 04-10202-RWZ

UNITED STATES OF AMERICA

v.

EARL DICKERSON

MEMORANDUM OF DECISION AND ORDER

December 15, 2004

ZOBEL, D.J.

On March 9, 2004, the Boston Police Department secured a warrant to search both 9 Westcott Street, Apartment #2 in Dorchester and a black 1997 Landrover automobile, in connection with an investigation of alleged illegal drug activities by defendant Earl Dickerson. The police thereafter carried out this search and expanded the scope to include an additional automobile (green Toyota Camry) owned by the defendant but not covered by the warrant. Based on evidence procured during this search, including a firearm, ammunition, cocaine and statements made by the defendant, he was charged with possession with intent to distribute crack cocaine.

Defendant now challenges the validity of the search on Constitutional grounds and seeks to suppress all evidence thereby obtained by filing two Motions to Suppress Evidence. According to the defendant, the police failed to execute the search of the apartment in accordance with the "knock and announce" terms of the warrant, and he has provided two affidavits in support of this claim. He argues further that the police

had no grounds for conducting a warrantless search of the additional vehicle.

The record clearly demonstrates a factual dispute regarding the execution of the warrant for search of the apartment, specifically whether the police followed appropriate “knock and announce” procedures. Accordingly, the Court will hold a hearing to resolve this dispute. With respect to the warrantless search of the green Toyota Camry, the government’s defense rests on the so-called “automobile exception” to the Fourth Amendment and an argument for probable cause. Because the claim for probable cause relies in part on statements made by the defendant in connection with the prior search of the apartment, the Court will defer its ruling on both Motions until after the hearing.

DATE

/s/ Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE